

May 11, 2023

To the Honorable Members of the Texas Congressional Delegation:

On behalf of our more-than 450 member hospitals and health systems, the Texas Hospital Association is grateful for your dedication to ensuring access to affordable care across the state. As cornerstones of health in communities large and small, we share in that pledge and consider it core to our mission.

Recently, debates about how to lower health care costs for patients and the delivery system at large have resulted in a review of all sectors of the health care industry, including hospitals. While we recognize there are always opportunities for improving care delivery, Texas hospitals are concerned that harmful and misleading narratives about the industry are being advanced. We would like to take this opportunity to share our perspective on a few key issues, as well as highlight several bills that would be helpful to Texas hospitals.

Hospitals are currently facing significant challenges including workforce shortages resulting in increased costs, treating sicker patients longer, meeting increased demands for behavioral health services, ensuring a safe work environment, and skyrocketing inflation. Since 2019, Texas hospitals' labor costs are up \$18.1 billion (20.9% higher), drug expenses are up \$2.8 billion, and medical supplies are up \$1.3 billion (8.5% higher).¹ In 2023 to date, hospitals are continuing to bear costs in all expense categories approximately 17-20% above pre-pandemic levels, with drug and supply costs now increasing faster than labor.² Yet unlike other commercial businesses that can nimbly adjust operations and prices based on inflation, hospitals are open 24/7 and are beholden to rates set by government payers and managed care contracts. These factors have led to the most financially challenging year for hospitals and health systems since the beginning of the pandemic. Today almost half of Texas hospitals (48%) are operating in the red, and nearly one out of every 10 is at risk of closure.¹

Price Transparency

Hospitals believe consumers should have information to make the best possible choices for their care. To drive greater transparency in the market, hospitals support price transparency for all provider types. Today, only hospitals and health plans have requirements to post their prices. According to Turquoise Health, 75% of Texas hospitals are compliant or mostly compliant with the federal requirements for posting procedure prices – a higher percentage than many other states.³ Texas hospitals are also subject to a state price transparency law that includes penalties, in addition to those set by the federal government. Despite some

¹ KaufmanHall. (2022). The financial impact of Covid-19 on Texas hospitals. <https://www.tha.org/wp-content/uploads/2022/11/Texas-Hospital-Association-Financial-Impact-Report-11.1.22.pdf>

² KaufmanHall. (2023). Current state of hospitals and future outlook. Presentation to A2HA Finance, Spring 2023.

³ Turquoise Health (2023). Price transparency impact report: Q1 2023, Appendix, By state.

mischaracterizations, we believe that **hospitals' compliance with these laws, coupled with federal and state oversight, is achieving greater transparency and more control for consumers over their health care.**

Medicare Outpatient Site-Neutral Payment Reductions

Hospitals have a higher cost structure than independent physician offices and ambulatory surgery centers due in part to standby capability, 24 hours a day, 365 days a year, and the requirements to maintain a highly educated and trained workforce. Hospital outpatient departments (HOPDs) — such as hospital-owned clinics that provide complex cancer, pediatric and mental health services — should not be paid the same Medicare rate as a stand-alone physician office. These outpatient departments treat more patients from medically underserved populations who tend to be sicker and more complex to care for than Medicare patients treated in independent physician offices and ambulatory surgical centers. They also are held to more rigorous licensing, accreditation and regulatory requirements. The cost of care delivered in hospitals and health systems, including HOPDs, is fundamentally different than other sites of care and there are unique benefits that only they provide to their communities. **THA strongly opposes site-neutral payment cuts, which would reduce access to critical health care services, especially in rural and other underserved communities.**

340B Drug Pricing Program

Hospitals eligible to participate in the 340B program are allowed to purchase drugs at a discount that depends on drug companies' pricing decisions. The generated savings allow hospitals to stretch limited federal resources to reduce the price of outpatient pharmaceuticals for patients, as well as expand health services to the patients and communities they serve. In Texas, some of these vital programs and services include the provision of free or discounted drugs to low-income patients, free care for uninsured patients, and support for behavioral health clinics and community health programs.

340B hospitals must *annually* recertify their eligibility to participate and attest to meeting all the program requirements. They are also subject to audits by the Health Resources and Services Administration and drug manufacturers. Many hospitals in Texas also participate in the American Hospital Association's Good Stewardship Principles program, which provides increased transparency into how savings are reinvested in the community. Any additional measures that increase transparency for 340B providers should include greater transparency for drug companies, including how they set their prices and how they decide to increase their prices. **THA urges Congress to protect the 340B program and oppose efforts to further restrict eligibility and increase hospital reporting requirements. Texas hospitals also call on Congress to address the alarming efforts by some drug companies to limit access by eligible hospitals' access to 340B discounted drugs.**

Hospital Mergers and Acquisitions

Hospital mergers help keep hospitals open – particularly hospitals that are financially challenged. This is especially evident in rural communities that are faced with low patient volumes and a heavy reliance on Medicare and Medicaid programs, which reimburse below the cost of care. Hospital mergers decrease costs and allow hospital systems to improve quality and expand services. According to data from Charles Rivers Associates, hospital acquisitions are associated with a statistically significant 3.3% *decrease* in operating expenses and a 3.7% *decrease* in net patient revenue per patient admission. **Mergers and acquisitions are one of the most important tools that some hospitals use to increase access to care, improve care coordination and manage financial pressures and risks.**

Texas hospitals are experiencing unprecedented challenges that are threatening their ability to provide the highest quality of care in their communities. **Members of the Congressional delegation can support Texas hospitals during these challenging times by co-sponsoring the following bills introduced in your respective chambers. We are hopeful that all of these will become bicameral and are extremely grateful if you have already become a co-sponsor.**

- **The Supporting Safety Net Hospitals Act (H.R. 2665):** This bipartisan legislation led by Reps. Clarke, Crenshaw, DeGette and Burgess would provide relief from \$16 billion in cuts (FY 2024 and FY 2025) to hospitals participating in the Medicaid Disproportionate Share Hospital (DSH) program set to begin Oct. 1. In Texas, the estimated losses would be \$800 million for FY 2024 alone. District-specific analyses can be viewed [here](#). Safety net hospitals that are serving a high number of low-income and uninsured patients cannot afford cuts of this magnitude without negative consequences to patient care. The repeal of these cuts will be paid for, but THA opposes any offset that will harm hospitals through direct reimbursement or otherwise.
- **The Safety from Violence for Healthcare Employees (SAVE) Act of 2023 (H.R. 2584):** Despite the diligent efforts of hospitals and health systems to prevent violence, health care workers remain five times more likely than any other type of worker to be physically attacked on the job, according to the Bureau of Labor Statistics. This bi-partisan legislation by Reps. Bucshon and Dean would, among other things, make it a federal crime to assault or intimidate a hospital employee and as a result interfere with the ability of that employee to perform their duties.
- **The Save Rural Hospitals Act (S. 803):** This bi-partisan legislation by Sens. Blackburn and Warner would establish a national minimum rate of 0.85 for the Area Wage Index reimbursement rate, resulting in an infusion of new federal dollars to rural hospitals and ensuring the increase is not paid for by decreasing payments to non-rural hospitals. This will ensure that rural hospitals (especially those in Texas) receive more appropriate

payment amounts for the care they provide to their patients and enable better accounting for the rising labor costs in rural communities.

- **The Rural Hospital Support Act (S. 1110):** This bi-partisan legislation by Sens. Grassley and Casey would make the low-volume Medicare adjustment and Medicare-dependent Hospital (MDH) program permanent, as well as add an additional base year MDHs could choose when calculating their payments.

Thank you for the opportunity to provide feedback on these important issues and pieces of legislation. Your support of hospitals can have far-reaching consequences for the patients they serve. We look forward to working with the delegation as opportunities for improving the health care delivery system are explored, and we are committed to an open dialogue about lowering costs and ensuring transparency.

Sincerely,



John Hawkins
President/CEO
Texas Hospital Association